

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:07CV385

WAYNE K. PURCELL,

Plaintiff,

Vs.

MISSION HOSPITALS,

Defendant.

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**MEMORANDUM AND
O R D E R**

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed November 7, 2008.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On November 7, 2008, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendant's

motion for summary judgment.¹ Counsel for the Defendant and the Plaintiff, who is proceeding *pro se*, were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 10 days of service of the Recommendation; the period within which to file objections expired on December 1, 2008. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation Defendant's motion for summary judgment be allowed.

IT IS, THEREFORE, ORDERED that the Defendant's motion for summary judgment is **ALLOWED**. A Judgment dismissing this action is filed herewith.

¹ The Plaintiff also filed a motion for summary judgment; however, the Magistrate Judge deemed such motion to be a timely response to the Defendant's motion for summary judgment. **Memorandum and Recommendation, at 1.**

Signed: December 3, 2008

A handwritten signature in dark ink, appearing to read "Lacy H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

